

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)
)
) Criminal No. 01-455-A
)
v.)
)
ZACARIAS MOUSSAOUI)

REPLY TO MOTION TO LOAD WORK PRODUCT
ON THE LIVE INTERNET SITE OF ZACARIAS MOUSSAOUI

Defendant Moussaoui, *pro se*, has filed a motion demanding that standby counsel include certain materials on an internet-based litigation support system designed for managing the review of non-classified discovery.¹ (Docket # 528). Mr. Moussaoui wants the Court to further order that the website be updated daily and that even work in process should be loaded on the website. Standby counsel respectfully request that the defendant's motion be denied and that the administration of the website, including the determination as to what should be loaded onto it, be left to the discretion of the Federal Public Defender.

Judgments as to what and when certain materials should be loaded on the website are made by the Federal Public Defender with advice from technical consultants experienced in the use of litigation support systems. The judgments are based on a combination of factors. These include budget, cost/benefit ratio, technical feasibility, whether doing so is efficient from the standpoint of personnel utilization, and whether there is time to do it given the limited number of personnel assigned to the Moussaoui defense. These

¹ Internet access to this site for Mr. Moussaoui has not yet been installed because, per the Court's Order of August 28, 2002 (Docket # 461), we were required to seek approval by the AO of our technical plan. Approval was requested on September 18, 2002, but has not yet been received. While approval is anticipated shortly, we have been advised that the AO will require installation of a "T-1" line, something that was not part of our proposed technical approach. Installation of this line will take at least thirty (30) days from the time it is ordered. We will not be ordering the line until we have AO approval.

judgments are not influenced by any intent to frustrate Mr. Moussaoui's *pro se* defense preparations. Indeed, just the opposite is the case. The judgments are guided by an intent to facilitate defense preparation, both Mr. Moussaoui's and standby counsels'.

With the trial date continuance, we expect the website to ultimately encompass a greater variety of materials than would have been the case without the continuance. Many of these additions will include the types of materials Mr. Moussaoui would like to see added and we are open to suggestions from him in this regard. But the fact that the Federal Public Defender has created the website for its use as standby counsel, and has indeed supported Mr. Moussaoui's request to have access to it, should not result in either the defendant, or the defendant through the Court, attempting to control what materials are placed on the website and when. These judgments, particularly given the cost and other resources involved, should be left to the Federal Public Defender and his expert advisors and litigation team. Anything not available on the website is still available to Mr. Moussaoui in either electronic media or hard copy form. Accordingly, the defendant's motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Reply to Motion to Load Work Product on the Live Internet Site of Zacarias Moussaoui was served upon AUSA Robert Spencer, AUSA David Novak, and AUSA Kenneth Karas, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, Virginia 22314, by facsimile, and also by placing a copy BY HAND in the box designated "U.S. Attorney" in the Clerk's Office of the U.S. District Court for the Eastern District of Virginia; and, by first class mail upon Zacarias Moussaoui, c/o Alexandria Detention Center, 2001 Mill Road, Alexandria, Virginia 22314, on this 10th day of October, 2002.

/S/

Frank W. Dunham, Jr.